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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 VINCENT KELLY,

12 Plaintiff,

13 v.

14 BANNER HEALTH, et al.,

15 Defendants.
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No. 2:24-CV-0920-DJC-DMC

ORDER

17 Plaintiff, who is proceeding with retained counsel as putative class representative,
18 brings this civil action. Pending before the Court are the following motions: (1) Defendant
19 Banner Health's motion to compel Plaintiff Kelly's attendance at an in-person deposition, see
20 ECF No. 33, filed on May 27, 2025, and set for hearing before the undersigned via Zoom on June
21 18, 2025, at 10:00 a.m.; and (2) Plaintiff Kelly's motion to compel Defendant Banner Health to
22 provide further responses to written discovery, see ECF No. 36, filed on June 4, 2025, and set for
23 hearing before the undersigned on June 25, 2025, at 10:00 a.m. The parties have filed joint
24 statements regarding both motions pursuant to Eastern District of California Local Rule 251, see
25 ECF Nos. 35 and 37.

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1 A review of the parties' joint statement regarding Plaintiff Kelly's motion to
2 compel further responses to written discovery reflects the following statement:

3 As an initial matter, Plaintiff informs the Court that there is now a
4 need to identify a new putative class representative. On June 7, 2025,
5 Plaintiff advised counsel that he no longer wanted to serve as the named
6 plaintiff in this action. Because the Belaire-West process has already
7 commenced, Plaintiff intends to use that process to identify and propose a
8 new putative class representative to adequately substitute in place of the
9 currently named Plaintiff [Vincent Kelly]. [citations omitted].

10 ECF No. 37, pg. 2.

11 Given this development, which arose after Defendant filed the pending motion to
12 compel Plaintiff Kelly's in-person deposition, Defendant's motion may be rendered moot should
13 a motion to substitute be filed and granted. In an effort to avoid the unnecessary expenditure of
14 the Court's time and resources to hear and rule on a motion which may be rendered moot, and to
15 allow additional time for Plaintiff Kelly to seek substitution, the Court will continue the hearing
16 on Defendant's motion to June 25, 2025, to coincide with Plaintiff's motion regarding written
17 discovery.

18 Defendant shall inform the Court as soon as possible if it will be withdrawing its
19 motion to compel Plaintiff's Kelly's in-person deposition given Plaintiff's representation that he
20 will seek substitution as putative class representative. If Defendant withdraws its motion, the
21 matter will remain on calendar for June 25, 2025, to hear arguments concerning Plaintiff's motion
22 regarding written discovery responses.

23 Accordingly, IT IS HEREBY ORDERED as follows:

- 24 1. The hearing on Defendant's motion to compel the in-person deposition
25 Plaintiff Kelly is CONTINUED to June 25, 2025, at 10:00 a.m., before the undersigned.
- 26 2. On the Court's own motion, the June 25, 2025, hearing shall be conducted
27 via Zoom with the Court to provide the parties with connection information separately.

28 Dated: June 13, 2025


DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE